

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **MINUTES OF BOARD MEETING**

**APRIL 11, 2006**

President Danny Cook called the meeting to order at 10:02 a.m. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Danny Cook, President, Ralph Buckner, Vice President, Bob Foster, Stephen Murphy, and Nancy Vincent. Board members Wendy Hellum and David Murphy were absent.

Staff members present were Robert Gribble, Executive Director, Lauren Kitchell, Staff Attorney, and Sandra Cooper and Jimmy Gossett, Administrative Assistants.

### **APPROVAL OF MINUTES:**

By consent, approval of the minutes for the March 14, 2006 meeting was deferred.

### **APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES:**

Upon motion, based upon the application records, the following applicants were approved for licensure.

<b>Darrell Lynn Alder</b> <b>Morristown, TN</b>	<b>Funeral Director</b>
<b>Milford Byrd</b> <b>Louisville, TN</b>	<b>Funeral Director</b>
<b>Robert Wayne Goins</b> <b>Jacksboro, TN</b>	<b>Funeral Director</b>
<b>Gina Ortiz Gaffney</b> <b>Arlington, TN</b>	<b>Funeral Director</b> <b>Reciprocity</b>
<b>Meegan Rogers Burton</b> <b>South Pittsburg, TN</b>	<b>Embalmer</b>
<b>Gregory Lynn Light</b> <b>Knoxville, TN</b>	<b>Funeral Director/Embalmer</b>
<b>David Wayne Tallent</b> <b>Etowah, TN</b>	<b>Funeral Director/Embalmer</b>
<b>Russell Lewis Willoughby</b> <b>Alexandria, TN</b>	<b>Funeral Director/Embalmer</b>

**APPROVAL OF ESTABLISHMENT LICENSES:** Upon motion, based upon the application records, the following applicants were approved for licensure.

**Bennett-May-Giles  
County Funeral Home  
Pulaski, TN**

**Name Change  
Ownership: LLC**

**Thompson's Mortuary  
Ripley, TN**

**Location & Ownership Changes  
Ownership: Sole Proprietorship**

**Woodard Funeral Home, Inc.  
Westmoreland, TN**

**Name & Ownership Changes  
New Ownership: Corporation**

**Claiborne Funeral Home  
New Tazewell, TN**

**Change of Ownership  
New Ownership: Corporation**

**Marshall-Donnelly-Combs  
Funeral Home  
Nashville, TN**

**Change of Ownership  
New Ownership: Corporation**

**Pettus-Turnbo Funeral Home  
Lawrenceburg, TN**

**Change of Ownership  
New Ownership: Corporation**

**Grant Funeral Services  
Estill Springs, TN**

**New Establishment  
Ownership: Partnership**

**LEGAL REPORT:  
LAUREN KITCHELL, STAFF ATTORNEY**

- **Notice of Suspension – Delinquent Child Support  
Tennessee Code Annotated § 36-5-706**
- **Legal Case Report**

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**1. Case No.: L06-FUN-RBS-2006006931**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, CPL, OBCPL, and the goods and services contract.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**2. Case No.: L06-FUN-RBS-2006006031**

Complaint is the result of an inspector's notice of violation which alleges: a body ready for viewing in the chapel did not have a permanent ID device. The inspector was told by the FD that they were waiting for the SS# in order to fully fill out the ID tag.

FH responds that the violation was corrected immediately and the entire staff has been reminded of the requirements of a permanent ID tag.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

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**3. Case No.: L06-FUN-RBS-2006006091**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, CPL, and OBCPL.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

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**4. Case No.: L06-FUN-RBS-2006005851**

Complainant alleges that a casket merchandise seller is engaged in false and misleading advertising. The advertisement states "would you like to save 50% on funeral services? We can tell you how! Save 25%-60%."

Casket merchandise seller responds that the store does not offer nor provide funeral services to consumers.

**Recommendation: Dismiss**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**5. Case No.: L06-FUN-RBS-2006006211**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, goods and services contract, and the OBCPL. The current license of an embalmer was not available for inspection; and a business card with the name of an unlicensed person with no indication that the person was not licensed was found by the inspector.

FH sent in corrected price lists, a copy of the embalmer's license, and a copy of the new business card.

**Recommendation: Consent Order assessing a \$750 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**6. Case No.: L06-FUN-RBS-2006006451**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL and the CPL.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

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**7. Case No.: L06-FUN-RBS-2006006921**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, goods and services contract, and the CPL. The business cards of one of the licensed employees stated that she was the manager of the FH when she is not.

FH sent in corrected price lists and stated that the business cards were an oversight and they have been corrected.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**8. Case No.: L06-FUN-RBS-2006009111**

Complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL and goods and services contract.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**9. Case No.: L05-FUN-RBS-2005030811**

This complaint was presented to the Board at its October 2005 meeting. The Board approved counsel's recommendation for a \$500.00 civil penalty. The complaint was the result of an inspector's notice of violation which alleged: several FTC violations; including deficiencies on the GPL and goods and services contract.

FH sent in corrected price lists. The Respondent's attorney has asked for a reduction in the penalty based on the fact that his client complied with the citation and immediately sent in corrected price lists. In my opinion this reduction would be appropriate based on the penalties the Board has assessed for minimal FTC violations.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**10. Case No.: L06-FUN-RBS-2006005651**

The complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including eight caskets in the selection room were not listed on the CPL and 4 caskets were priced incorrectly.

FH sent in corrected price lists. FH explains that they were in the process of updating the CPL and had not finished when the inspector came by. FH states that no consumers had been in the selection room since they began updating the list and that they were not trying to deceive anyone.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

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**11. Case No.: L06-FUN-RBS-2006006961**

The complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, OBCPL, and the name of the establishment on the price list did not match the name registered with the State of Tennessee. Inspector also noted that the preparation room ventilation system was not working properly.

FH sent in corrected price lists and responded that a new fan is on order and the back up system is working properly.

**Recommendation: Consent Order assessing a \$500 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation and to also have one of the field representatives reinspect this establishment.

Seconded by Mr. Buckner

Adopted by voice vote

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**12. Case No.: L06-FUN-RBS-2006002221**

The complaint is the result of an inspector's notice of violation which alleges: the name of the establishment on the FH price lists does not match the name registered with the State of Tennessee.

After two requests FH has not responded.

**Recommendation: Consent Order assessing a \$500 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**13. Case No.: L06-FUN-RBS-2006010191**

The complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL, OBCPL, and CPL.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Buckner

Adopted by voice vote

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**14. Case No.: L06-FUN-RBS-2006006941**

The complaint is the result of an inspector's notice of violation which alleges: several FTC violations; including deficiencies on the GPL and CPL.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

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**15. Case No.: L06-FUN-RBS-2006006431**

The complaint is the result of an inspector's notice of violation which alleges: one FTC violation on the GPL. Two bodies which were casketed and ready for viewing did not have a permanent ID device. Inspector also noted that the embalming room was unsanitary.

FH sent in corrected price lists and responded that a permanent ID tag will always be placed on a body as soon as it arrives at the FH. FH also sent a memo to all employees to follow the ID tag rule and a "clean as you go" practice of operation in the preparation room.

**Recommendation: Consent Order assessing a \$750 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**16. Case No.: L06-FUN-RBS-2006008451**

Complainant feels that Respondent FH is asking for money after she paid the bill that was presented to her. Complainant sent in a letter asking to dismiss the complaint and that it has been resolved.

FH sent in response that situation has been settled and that it was a big misunderstanding.

**Recommendation: Dismiss**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

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**17. Case No.: L06-FUN-RBS-2006010171**

The complaint is the result of an inspector's notice of violation which alleges: FTC violations; including deficiencies on the GPL and OBCPL.

FH sent in corrected price lists.

**Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.



Seconded by Ms. Vincent

Adopted by voice vote

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**18. Case No.: L06-FUN-RBS-2006006891**

The complaint is the result of an inspector's notice of violation which alleges: FH not registered as a pre-need seller.

FH is now registered.

**Recommendation: Transfer to Burial Services**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

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**19. Case No.: L06-FUN-RBS-2006006911**

The complaint is the result of an inspector's notice of violation which alleges: FTC violations; including deficiencies on the GPL, CPL, and the OBCPL was not available for inspection. Based on a random inspection of funeral contracts, the inspector found two contracts where "basic services of the FH and staff" was charged at a higher price than what was listed on the GPL, and a file did not have a statement of goods and services in it.

FH sent in corrected price lists and states that the violations have been corrected.

**Recommendation: Consent Order assessing a \$500 civil penalty and authorization for a formal hearing.**

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

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**20. Case No.: L04-FUN-RBS-2004199211**

Complainant paid Respondent FD life insurance premiums for her children. When the complainant made claims for her deceased children, the insurance carrier informed her that they had never received the premiums from the insurance agent.

After a thorough investigation no evidence has been found to substantiate the complaint. The complainant has no interest in pursuing the matter further and has dropped the complaint.

**Recommendation: Dismiss**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**21. Case No.: L05-FUN-RBS-2005013761**

Tennessee Department of Health's Office of Vital Records filed complaint against Respondent funeral director for consistent and ongoing failure to administer death certificates in a timely manner.

The establishment is now closed.

**Recommendation: Close with no action**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

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**22. Case Nos.: L05-FUN-RBS-2005024581; L05-FUN-RBS-2005013711**

The Board voted to issue Consent Orders assessing civil penalties for these complaints but did not authorize formal hearings. The Respondents have not accepted the Board's offer to settle the matters without formal proceedings.

**Recommendation: Authorization for a formal hearing**

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

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**STAFF REPORT:  
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**1. Closed Establishments:**

There have been two establishments closed since the last board meeting.

- **Gill-Bledsoe Funeral Home – Milan, TN**

The office received a letter on March 16, 2006, from Bruce E. Bledsoe, the manager, stating the establishment located at 3094 West Jackson Street closed effective March 9, 2006.

- **Yarbrough Funeral Home, Inc. – Ripley, TN**

The office received a facsimile on March 31, 2006, from Landon B. Yarbrough, Jr., the manager, stating the establishment located at 150 Volz Avenue closed effective March 30, 2006.

## **2. Disciplinary Actions:**

The Board has previously approved the consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents with exception of a payment plan for the first complaint. The executive director requests the Board's acceptance of the following consent orders.

### **Complaint No. 2006001351**

**Violation:** Immoral or unprofessional conduct – embalmed human remains without the written or verbal consent of decedent's family

**Action:** \$1000 Civil Penalty

### **Complaint No. 2005042411**

**Violation:** Deficiencies on the general and casket price lists and failure to affix a permanent identification device to the decedent prior to or at the time of placing the dead human body in a casket for interment

**Action:** \$750 Civil Penalty

### **Complaint No. 2005041331**

**Violation:** Multiple violations regarding the general price list and statement of funeral goods and services selected

**Action:** \$500 Civil Penalty

### **Complaint No. 2005041841**

**Violation:** Deficiencies on the general, casket and outer burial price lists and statement of funeral goods and services selected, the preparation room floor needed to be replaced and the drainage sink was not in proper condition

**Action:** \$500 Civil Penalty

### **Complaint No. 2005042881**

**Violation:** Casket and outer burial container price lists were not available for inspection and the price range on the general price list did not match casket prices in the selection room

**Action:** \$500 Civil Penalty

**Complaint No. 2005025161**

**Violation:** Prices charged on a decedent's statement of funeral goods and services selected exceeded prices on current general price list and deficiencies on the general price list regarding direct cremation and immediate burial

**Action:** \$500 Civil Penalty

**Complaint No. 2005024641**

**Violation:** Failure to include all statutorily required information on the permanent identification device and failure to include an alternative container on the casket price list

**Action:** \$500 Civil Penalty

**Complaint No. 2006006351**

**Violation:** During an inspection, seven caskets were not listed on the casket price list and contracts did not contain the reason for embalming

**Action:** \$250 Civil Penalty

**Complaint No. 2005039461**

**Violation:** Failure to include all statutorily required information on the permanent identification device

**Action:** \$250 Civil Penalty

**Complaint No. 2006001121**

**Violation:** Deficiencies on the general, casket and outer burial container price lists

**Action:** \$250 Civil Penalty

A motion was made by Mr. Steve Murphy to accept Executive Director's request.

Seconded by Mr. Foster

Adopted by voice vote

**3. Manager Changes**

There have been four establishments report manager changes since the last board meeting.

Name of Establishment	Name of New Manager
Alexander Funeral Home	Todd Lee Yates
Gallatin, TN	
Hall Funeral Home, LLC	Terri Lynn Gray
Celina, TN	

<b>Stockdale-Malin Funeral Home</b>	<b>Gordon Wheatley</b>
<b>Big Sandy, TN</b>	
<b>Coffey Funeral Home</b>	<b>Wayne L. Coffey</b>
<b>Harrogate, TN</b>	

#### **4. Funeral Rules**

Collection of ideas from board members regarding proposed rule changes.

#### **ADJOURN:**

A motion was made by Mr. Buckner to adjourn.

Seconded by Mr. Foster

Adopted by voice vote

There being no further business the meeting was adjourned at 11:15 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director